COURT NO. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 549 of 2001

1. The Commissioner of Income Tax, Dehradun.
2. Dy. Commissioner of Income Tax (A), Special-1 Dehradun

.....Appellants

Versus

M/s Hughes Services (Far East) Pvt. Ltd.
16-A, Poes Garden, Madras

.....Respondent

Dated: February 20, 2006

Mr. P. Maulekhi, Advocate for the appellants.

Coram: Hon. P.C. Verma, J.
Hon. B.C. Kandpal, J.

This appeal is against the order dated 10.01.2001, passed by the Income Tax Appellate Tribunal, (Delhi Bench 'C' New Delhi) in TDS No.22(Del) of 1995. The dispute relates to the Assessment Year 1989-90.

2. The substantial questions of law raised in the appeal are as follows:

> "Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally justified in holding that interest u/s201/201(1A) of I.T. Act for the month of April each financial year is not chargeable, specially in view of the provisions of Section 201 (1A) of I.T. Act, which clearly stipulates that interest is chargeable from the date on which tax was deductible."
>
> Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal

Was legally justified in holding that the free accommodation facility provided by the employer to its employees on board the rig in high seas cannot be construed to be perquisite?"

"Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was not legally justified in holding that no perquisite arose on account of free accommodation facility provided by the employer to it a employee and assessment authority was not justified in charging interest under Section 201 (1A) of the I.T. Act"?

3. As this Court has discussed in Income Tax Appeal No. 57 of 2002, in the case of *Commissioner of Income Tax and another Vs. Sedco Forest International Drilling Co. Ltd.* decided on 9th October, 2003; the reasoning regarding these questions are given as under:-

In this case, assessee had to work on the rig. It was hazardous, arduous and continuous. Under such circumstances, free accommodation, food and beverages is a necessity. It is not a luxury. It is not a perquisite. Therefore, the Department cannot levy interest on the employer under Section 201/201(1-A) of the Income-Tax Act.

4. In view of the above discussion, the above questions of law are answered in the affirmative i.e. in favour of the assessee and against the Department.

5. The appeal is dismissed accordingly. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang